

Staff Summary Report



To: Mayor and City Council
Through: City Manager

Agenda Item Number 13
Meeting Date: 02/15/01

SUBJECT: BALL PARK PUB #SGF-2001.09

PREPARED BY: Hector Tapia, Senior Planner (480-350-8331)

REVIEWED BY: Dave Fackler, Development Services Manager (480-350-8333)

BRIEF: This is the second public hearing for Ball Park Pub for a use permit extension located at 1855 East Guadalupe Road.

COMMENTS: **PLANNED DEVELOPMENT (0406)** Hold the second public hearing for **BALL PARK PUB** (Two Bar, Inc., property owners) for an Amended General and Final Plan of Development #SGF-2001.09 for Anozira Neighborhood Center for a use permit extension (previous condition of approval #2) consisting of a 4,012 s.f. sports bar located at 1855 East Guadalupe Road. The following approval is requested from the City of Tempe:

Previous Council Conditions:

1. Use Permit is non-transferable and is issued to Ball Park Pub and Michael Cuneo, proprietor only.
2. Within two years of the date of City Council approval, the applicant shall return to the City Council for review of compliance with the conditions of approval.

Document Name: 20010215devsrh05 **Supporting Documents:** Yes

SUMMARY: On December 10, 1998, City Council approved a use permit request by Ball Park Pub (Michael Cuneo, Two Bar, Inc., Business Owner) for a change of ownership and a time extension. The existing use permit includes disc jockey and/or karaoke music but no live entertainment. The applicant is now requesting a time extension as required on the previous Council approval Condition #2. The Police Department issued an automatic Security Plan renewal since the business has been operating without problems addressed to police or to Development Services staff. Staff recommendation is to condition the use permit on change of business ownership, intensification or expansion of the use, and on verifiable police complaints. If any of these three occurs, the applicant shall come back to the City Council for re-approval. Staff feels that, for this business, the time period stipulation is no longer necessary. Up to this date staff received one phone call but no concerns just expressing support of the existing business operation. Staff recommends approval subject to the attached conditions.

RECOMMENDATION: Staff - Approval
Public - Comments

- ATTACHMENTS:**
1. List of Attachments
 - 2-3 History & Facts / Description
 4. Comments
 5. Conditions of Approval
 6. Location Map
 7. General Plan of Development
 8. Floor Plan
 9. Letter of Authorization
 10. Previously approved conditions of approval
 11. Police Security Plan (existing plus letter of renewal)

HISTORY & FACTS:

<u>October 7, 1974</u>	The City Council approved a master plan for Anozira Partnership for a 203 acre parcel, including granting PCC-2, R/O and R1-7 zoning.
<u>October 11, 1984</u>	The City Council approved an Amended General Plan for the PCC-1 portion of the shopping center on this site.
<u>January 9, 1986</u>	The City Council approved an Amended General Plan for the center.
<u>March 20, 1986</u>	The City Council approved a Final Plan of Development for the center.
<u>May 21, 1987</u>	The City Council approved an Amended General and Final Plan of Development for the center.
<u>March 10, 1988</u>	The City Council approved an Amended General and Final Plan for Pad "C" (El Pollo Loco) in the center with a use permit for outside dining.
<u>August 11, 1988</u>	The City Council approved a 2nd Amended General and Final Plan for a service station (convenience store with gas pumps) on Pad "B", part of the subject site. (This plan was never effectuated.)
<u>August 25, 1988</u>	The City Council approved a 3rd Amended General and Final Plan for a dry cleaning facility on Pad "A" in the center.
<u>Sept. 28, 1989</u>	The City Council approved a use permit for a veterinarian clinic in the center.
<u>October 18, 1990</u>	The City Council approved a 4th Amended General and Final Plan for Caliber Branch Bank on Pad "B" in the center. It was not built and the amendment was not recorded.
<u>July 16, 1992</u>	The City Council approved the request of Lomas Mortgage USA for a 5th Amended General and Final Plan of Development and use permits to allow an outdoor play area for a day care center at Shops C and an outdoor dining patio at Shop F.
<u>October 8, 1992</u>	The City Council approved a Daddy-O's Express Drive-Through Restaurant for Pad B-1. It was never built.
<u>October 28, 1993.</u>	The City Council approved the Taco Bell Restaurant request on Pad "B."
<u>January 13, 1994.</u>	The City Council approved an Amended General Plan of Development for the overall center and a Final Plan for Pad "B-1" for a Whataburger drive-through restaurant with a use permit for outdoor dining and two setback variances, subject to conditions to address the traffic congestion concern of an adjacent neighbor. This, too, was not built.

January 12, 1995

The City Council approved a Kenny Roger's Roaster restaurant at 1817 E. Guadalupe Rd. This was the 8th Amended General and Final Plan of Development for this shopping center. The restaurant was not built.

June 20, 1996.

The City Council approved the request by Ball Park Pub for an Amended General and Final Plan of Development and a use permit for a sports bar.

December 10, 1998.

The City Council approved a request by Ball Park Pub for a change of business ownership and time extension of the use permit.

February 8, 2001.

The City Council held the first public hearing.

DESCRIPTION:

Owner - Weingarten Realty Management Co.

Applicant – Michael Cuneo

Existing zoning - PCC-1

Total site area - 18.51 acres

Total bldg. area - 167,943 s.f.

Building area, Ball Park Pub - 4,012 s.f.

Parking required:

Total Center = 817 spaces (includes 80 spaces for Ball Park Pub)

Parking Provided:

Total Center = 847 spaces (includes 80 spaces for Ball Park Pub)

Previous Council Conditions:

1. Use Permit is non-transferable and is issued to Ball Park Pub and Michael Cuneo, proprietor only.
2. Within two years of the date of City Council approval, the applicant shall return to the City Council for review of compliance with the conditions of approval.

Previously Approved Use Permit

Allow a 4,012 s.f. sports bar in the PCC-1 Zoning District.

COMMENTS: The Ball Park Pub has been in the Anozira Center since 1991. The first 5 years as a restaurant then it was converted to restaurant/bar in 1996. Two years ago the City Council approved a transfer of business ownership and a time extension of the existing use permit. The new owner since 1998, as stipulated by a Council condition #2 on the December 1998 approval, is now requesting a use permit time extension.

The current business owner has been operating the Ball Park Pub without concerns expressed by adjacent neighborhood or existing tenants within the Pueblo Anozira commercial center. The existing use permit includes disc jockey and/or karaoke music but no live entertainment. The Police Department has issued an automatic update on the existing Security Plan for Ball Park Pub and supports the applicant's time extension. Development Services staff also has not received any letters expressing concerns about this business. Staff received one phone call from an adjacent neighborhood association but only requesting more information and indicating that they support the existing operation of this business. As noted in this report, the applicant is not requesting any changes to his business.

Staff recommends approval of the use permit extension and deleting previously approved condition #2, two years time review. The use permit is now conditioned on change of business ownership, intensification or expansion of the use, and on verifiable police complaints. If any of these three occurs, the applicant shall come back to the City Council for re-approval. Staff feels that, for this business, the time period stipulation is no longer necessary. Up to this date, one phone call was received but no opposition.

**REASON(S) FOR
APPROVAL:**

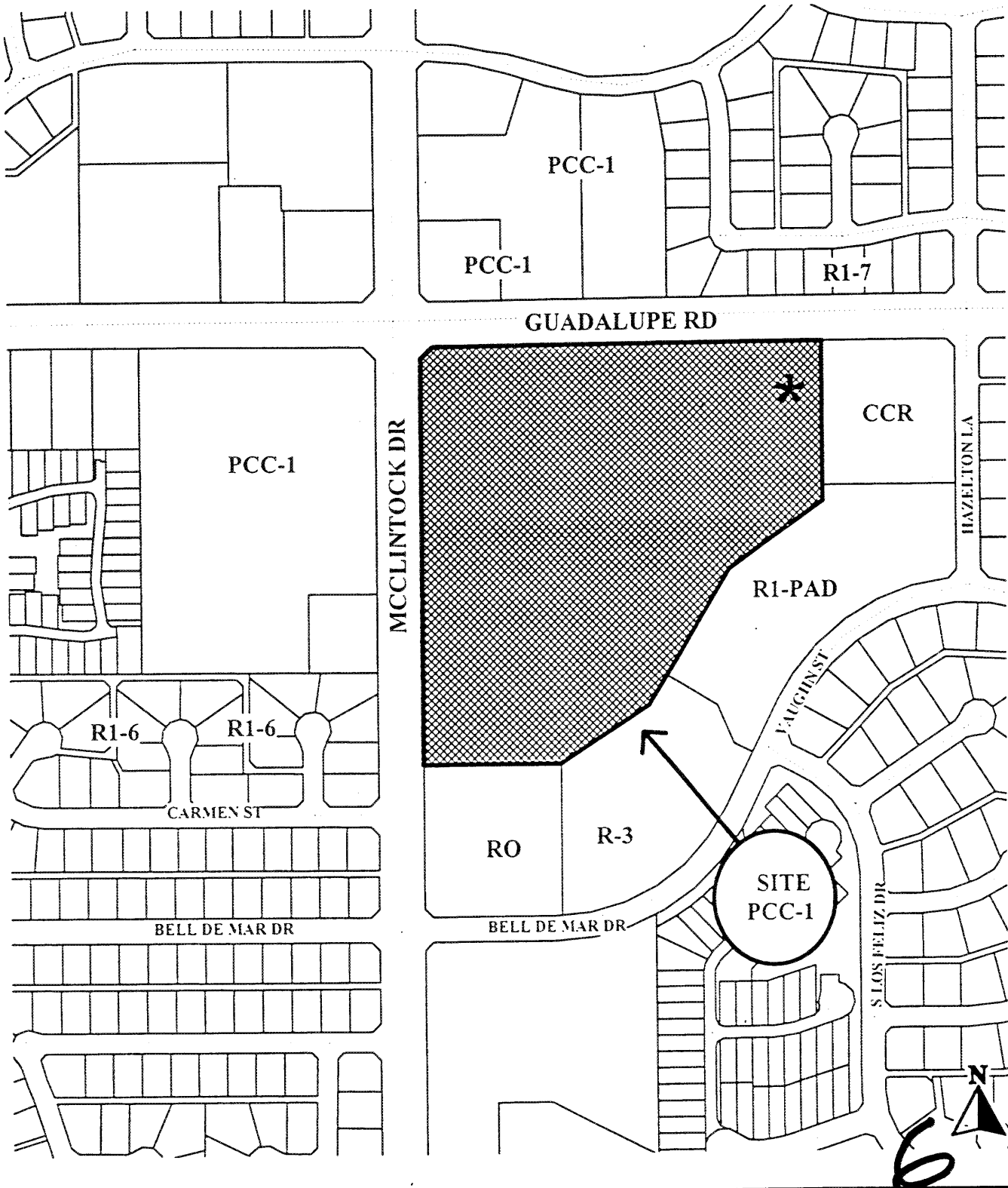
1. The business owner of Ball Park Pub has been operating the business without concerns expressed by the surrounding neighborhood and/or tenants within the Pueblo Anozira Commercial Center.

**CONDITION(S)
OF APPROVAL:**

1. The use permit is non-transferable and is issued to the Ball Park Pub and Michael Cuneo, proprietor, only.
2. Any intensification or expansion of the use shall require the applicant to return to the City Council for further review.
3. Any significant verifiable police complaints (as determined by the City Attorney and Police Dept.) shall require the applicant to return to the City Council for a re-evaluation of the use permit.
4. A security agreement shall be executed and approved with the Police Department prior to Council action.
5. Bar activities shall cease at 1:00 A.M. per State statute.
6. No live entertainment is allowed unless permitted in writing by the City after the appropriate public hearing.

BALL PARK PUB

SGF-2001.09



Location Map SEE OTHER SIDE FOR MORE INFORMATION

BALL PARK PUB

SGF-2001.09

SYMBOL(S):



EXISTING BUILDINGS

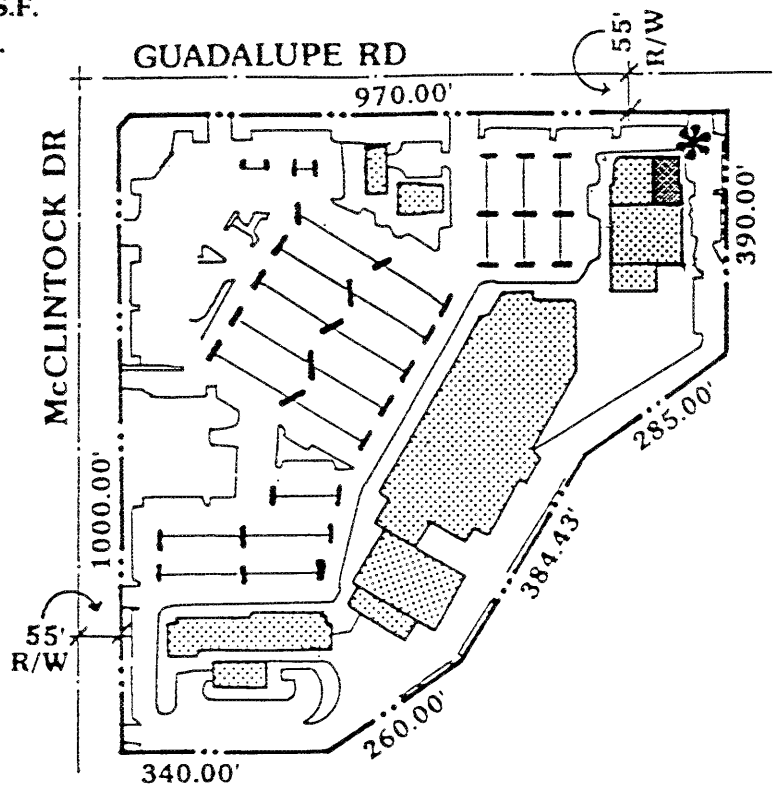


PROPOSED LEASED AREA

SITE DATA:

NET SITE AREA: 18.61 AC
TOTAL BUILDING AREA: 149,104 S.F.
PROPOSED LEASED AREA: 4,012 S.F.
(BALL PARK PUB)

USE PERMIT(S): (SEE BELOW)



Request

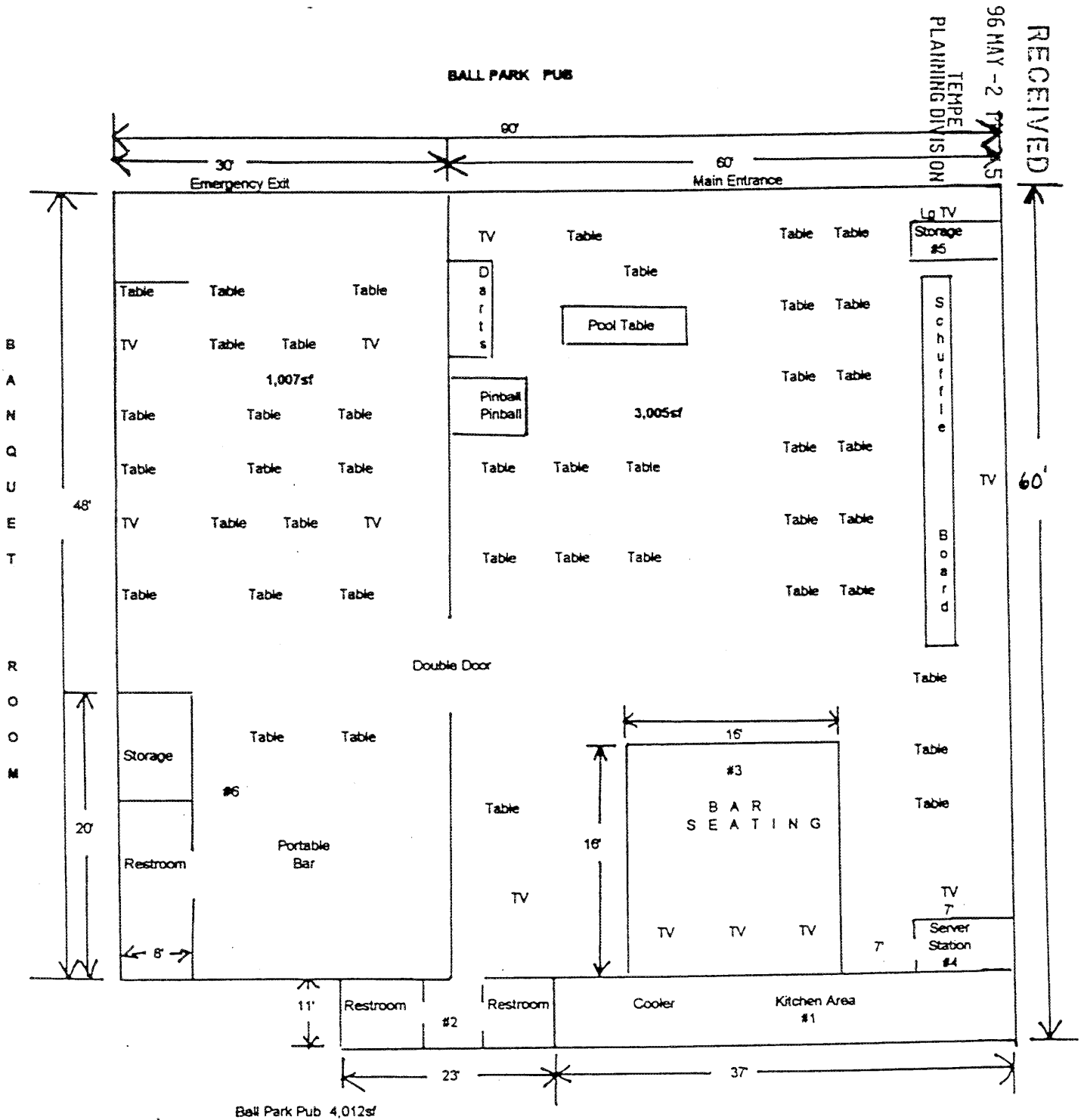
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CARMEN
STREET

[illegible]

EXPANXLS

BALL PARK PUB



Main Room - 3,005sf

#1 - Kitchen 11' x 37'

#2 - Restrooms/Storage 11' x 23'

#3 - Bar Area 15' x 16'

#4 - Server Station 7' x 7'

#5 - Storage 8' x 3'

Banquet Room - 1,007sf

#6 - Restroom /Storage 8' x 20'

#7 - Band/Dance Area 10' x 22'

Ba



**WEINGARTEN
REALTY
MANAGEMENT
COMPANY**

3101 North Central Avenue
Suite 990
Phoenix, Arizona 85012
(602) 263-1166
1-800-600-0886
FAX (602) 263-8852

January 25, 2001

Mr. Hector Tapia
City of Tempe
PO Box 5002
Tempe, AZ 85280

RE: Pueblo Anozira Shopping Center
Ball Park Pub; 1855 East Guadalupe, #A-101 Tempe, AZ 85283

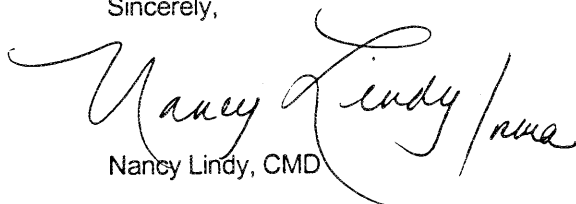
Dear Mr. Tapia:

This letter should serve as notice that Weingarten Realty Management Company approves the continued operation of the above referenced tenant and their application to renew their current use permit.

Per your request, I have enclosed labels for the tenants at Pueblo Anozira Shopping Center.

Should you have any questions or are in need of more information, please give me a call at 602-263-1166.

Sincerely,


Nancy Lindy, CMD

NML/rma

cc. Miles Sanchez

Development Services
Department
602-350-8331 (Phone)

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December 14, 1998

Michael J. Cuneo
Two Bar, Inc.
901 West Mesquite Street
Chandler AZ 85224

FILE COPY

Re: #SGF-98.86

Dear Mr. Cuneo:

At their regular meeting of December 10, 1998, the City Council held its second public hearing and approved the request by **BALL PARK PUB** (Two Bar, Inc., business owner) to allow a change of ownership and time extension (previous Conditions of Approval #1 and #2) on an Amended Final Plan of Development #SGF-96.47 consisting of 4,012 s.f. of total building area on 2.52 net acres located at ~~3300 South Price Road~~
1855 E. GUADALUPE RD

Previous Council Conditions:

1. Use permit is non-transferable and is issued to Ball Park Pub and Jesus Almaraz, proprietor, only.
2. Within two years of the date of City Council approval, the applicant shall return to the City Council for review of compliance with the conditions of approval.

The approval was subject to the following conditions:

1. The use permit is non-transferable and is issued to the Ball Park Pub and Michael Cuneo, proprietor, only.
2. Within two years of the date of City Council approval, the applicant shall return to the City Council for a review of compliance with the conditions of approval.
3. Any intensification or expansion of the use shall require the applicant to return to the City Council for further review.
4. Any significant verifiable police complaints (as determined by the City Attorney and Police Dept.) shall require the applicant to return to the City Council for a re-evaluation of the use permit.

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5. prior to 12/10/98. The original sports bar use permit is conditioned at all times upon the existence of the approved security plan.
6. Bar activities shall cease a 1:00 a.m. per State statute.
7. No entertainment is allowed unless permitted in writing by the City after the appropriate public hearings.

Sincerely,


Terry L. Mullins
Deputy Director

TLM:jrh

cc: File
Traffic Engineer

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Date: October 26, 2000

Reference: Automatic renewal of Security Plan for
Ball Park Pub
1855 E. Guadalupe Road
Tempe, AZ 85283

To: Management/Owners of Ball Park Pub:

This is to inform you that your current Security Plan with the City of Tempe has almost expired. After a reexamination of your establishment we have found no specific reason not to renew your Security Plan at this time.

Please acknowledge your acceptance of this automatic renewal for your existing Security Plan by returning the enclosed document signed and dated to Buck Rogers before your expiration date of November 24, 2000. An automatic renewal means that the conditions of the original approved plan, including any amendments will remain in effect. Failure to do so may lead to the possibility of reapplying for a new Security Plan. It is a violation of Tempe City Code Chapter 11, Section 11-30 (e) to operate a Use without a Security Plan.

Could you also fill the Operation Notification sheet out in order for us to update any changes in your business.

Should you have any questions please feel free to contact me during business hours.

Sincerely,

Bill "Buck" Rogers
Security Plan Manager
Tempe Police Department
480-350-8542

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Security Plan Renewal

By signing below I acknowledge and accept the automatic renewal of the existing Security Plan for Ball Park Pub originally signed and dated November 24, 1998. I agree to continue to comply with all conditions during the renewal period, which will extend until November 24, 2002. At which time the plan will be re-evaluated. I also understand I can contact Buck Rogers with the Tempe Police Department at any time with any questions or concerns I may have.

Name: Signature on file.
Michael J. Cuneo
Sec/Treasurer

Date: 11-4-2000

Address: 1855 E. Guadalupe Road
Tempe, AZ 85283
Phone: (480) 838-9585
Fax:
Office: 480-506-4711

In order to avoid missing the expiration date of November 24, 2000 please sign, date and mail this agreement ASAP.

Please provide information of **any changes** in management below. Include name, home address and phone. Please Print.

1) No changes.

2)

3)

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Security Plan



Police Department

120 E. Fifth Street
Tempe, Arizona 85281
(602) 350-8305
FAX: (602) 350-8493

SECURITY PLAN FOR:

Establishment:	Ball Park Pub
Address:	1855 E. Guadalupe Road Tempe, AZ 85823
Business Phone:	(602) 838-9585
Business FAX:	none
Maximum Occupancy:	168
Effective Date of Plan:	11/24/1998
Date of Plan Review:	11/24/2000
Use Permit Issue Date:	
Beverage License:	
Type:	Series 6
State No.:	06070388
Issue Date:	10-09-98

(12/10/98)
Council date

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I. PURPOSE OF THE PLAN

This Plan addresses security measures for an establishment whose use shall require a Security Plan pursuant to Tempe City Code, Section 11-30.

This Security Plan's purpose is to comply with the Security Plan conditions and/or requirements set forth in a Use Permit; to address the concerns of the zoning ordinance regarding: any significant increase in vehicular or pedestrian traffic, adequate control of disruptive behavior both inside and outside the premises, compatibility with surrounding structures and uses, any deterioration of the neighborhood or to the downgrading of property values; and to assist in providing an environment which may enhance safeguarding of property and public welfare and reduce the necessity for calls for service from law enforcement agencies.

This Security Plan, when approved by the City of Tempe, is granted to the establishment as set forth in Tempe City Code, Section 11-30. A Security Plan may be required as a condition prior to the issuance of a Use Permit or City license. Deviations from or changes, modifications or alterations to the Plan shall not occur without prior written approval of the City of Tempe. A copy of this Security Plan must be kept on the premises at all times and shall be made available upon request.

II. PLAN OF OPERATION, PROGRAM PLAN AND HOURS

1. PERMITTEE: Two Bar, Inc. dba Ball Park Pub
- 2.

TYPE ORGANIZATION: ☒ Arizona Corporation ☐ Corporation
☐ Sole Proprietorship ☐ LLC ☐ Partnership ☐ Other

2. MANAGING AGENT(S):

Name: Michael J. Cuneo
Title: Sec/Treasurer
Address: 901 E. Mesquite St.
Chandler, AZ 85234
Phone: (602) 899-0128
FAX or Other Numbers: (602) 506-4711 (ofc)

3. BUSINESS OWNER(S) (if different than Managing Agent) Name, Address, Phone:

Name: Two Bar Inc.
Address: 1855 E. Guadalupe Rd
Tempe, AZ. 85283
Phone: (602) 838-9585
FAX or Other Numbers:

4. PROPERTY OWNER or PROPERTY MANAGER (if different from Managing Agent) Name, Address, Phone:

Name: Weingarten Realty Management Group
Address: 1702 E Highland St. Suite 318
Phoenix, AZ. 85016

Phone: (602) 263-1166
FAX or Other Numbers: (602) 263-8852

5. HOURS OF OPERATION:

	<u>Open to Customers</u>	<u>Liquor Sale Ends</u>	<u>Close to Customers</u>
Sunday – Saturday	10:00 a.m.	12:59 a.m.	1:15 a.m.

6. PROMOTIONAL EVENTS (Ladies Night, Teen Nights, etc.):

Ladies Night – Wednesday Nights.
Karaoke Night – Thursday Nights
D.J. Music- Friday and Saturday Nights

7. DESCRIPTION OF OPERATIONS/SERVICES (attach or describe):

Services Provided:	Bar/Restaurant
Target Audience/Patrons:	30+ Local area
Estimated Average Attendance Per Night:	25 to 50
Menu: (see attached)	Sandwiches-Appetizers
Designated Driver Program:	See attached.

8. PROGRAM FORMAT, ENTERTAINMENT (attach or describe):
Program/entertainment format, advertising.

- a. Live entertainment and live music shall terminate no later than 12:55 a.m. and only as approved in Use Permit.
- b. Music and amplified sound (interior and exterior) shall terminate at closing and is subject to City noise and other ordinances.

9. SPECIAL EVENTS:

- a. Notice must be given by Permittee to Tempe at the address above at least fourteen (14) days prior to conducting Special Events on the premises. "Special Events" are any program formats varying from the regular format and audiences described or provided above organized or planned by Permittee. Tempe requires separate licenses for outdoor special events.

- b. Additional security or revisions to this Plan may be required by Tempe for Special Events (program formats varying from the regular format described above).
- c. Permittee must be separately licensed to conduct After Hours, Teen Nights, Outdoor Event/Special Events, Special Liquor License Events, Extensions of Premises, and separately approved Security Plans (or amendments to this Plan). See Tempe City Code for requirements.

10. COOPERATION/COMPLAINTS/CONCERNS:

- a. Permittee will maintain communications with establishments located on and adjacent to the premises, and with residents and other businesses who may be affected by patrons or operations of the Permittee. Permittee designates the following person to receive and respond to concerns or complaints from other residents or businesses:

Michael Cuneo

Name

- b. Permittee, managing agents, on duty managers, supervisors and security personnel will cooperate closely with Tempe police, officers and neighbors in addressing and investigating complaints and concerns.
- c. Permittee's managing agent(s) shall meet with Tempe Police Department when requested by the Security Plan Manager or other personnel of the Tempe Police Department on matters related to this Plan.

III. SITE/BUILDING INFORMATION

A copy (8½" x 11") of the exterior and interior plan, description and uses is attached.

IV. GENERAL SAFETY CONDITIONS

- 1. Exterior entrances shall be illuminated with a minimum of five (5) footcandles of light at ground level to six (6) feet vertical between the hours of sunset and sunrise.
- 2. A lighting plan approved by the Crime Prevention Through Environmental Design (C.P.T.E.D.) staff for the parking lot and entrances/exits shall be prepared and submitted to staff within thirty (30) days of the signing of this document. Failure to initiate a lighting plan may cause this agreement to be void. An implementation schedule must be included, which must be completed within six (6) months of the signing of this Security Plan.
- 3. Existing exterior lamps provided on the building and in the parking areas for security of patrons and employees shall be repaired immediately when the light is not operational to maximize the lighting efficiency.

4. Only ADA locks shall be used on the restroom doors with a key bypass. The current restroom foyer door must be removed within thirty (30) days of the signing of this Plan. The coin-operated telephone in the restroom foyer shall be moved to the outer south wall of bar (outside foyer).
5. Light switches to restroom areas shall be inaccessible and incapable of use by anyone other than Permittee staff.
6. Landscape plantings shall not conflict with the above lighting standards. Landscape plantings, including trees, shall also be maintained to allow for good surveillance.
7. Any graffiti that may appear on the Permittee's property shall be removed or covered within forty-eight (48) hours, upon discovery or when notice is given by the Police Department.
8. All fire lanes shall be properly posted and curbs painted in RED.
9. Owner/manager shall be included in Tempe's Operation Notification Program and Responsible Party information shall be kept current.
10. All debris, including glass and can containers, shall be removed from parking lots and adjacent landscape areas after closing.
11. A moveable, wide-angle door viewer (peephole) of no less than two (2) inch diameter must be installed on the east door leading to the parking lot.
12. The west single restroom in the adjoining bar area is to be designated "Women's Only" and the entry door positioned such to prevent viewing inside the restroom area.

V. PATRON PARKING, INGRESS AND EGRESS, VEHICULAR AND PEDESTRIAN TRAFFIC CONTROL

1. PARKING

- a. Parking utilized by Patrons (# spaces, description, location):

27 spaces on the north and east side of the building

- b. Parking utilized by Employees (# spaces, description, location):

4 on east side of the building

- c. Any parking used by patrons or employees of the Permittee and any parking area of the Permittee shall be supervised by the Permittee to ensure that the parking areas are used by persons entering and exiting from their vehicles and are not used as a gathering place, for consumption of spirituous liquor, for violations of state or city law, acts of violence or disorderly conduct.

- d. Four (4) signs stating "No Loitering" and "No Alcohol Consumption Permitted" shall be posted throughout the parking area utilized by patrons. Signs shall be placed in locations visible to all patrons.

2. PATRON INGRESS/EGRESS

- a. Entrances to the premises will be continually monitored by Permittee for compliance with the maximum occupancy requirements for the premises.
- b. Patron identification shall be required and verified by Permittee prior to entry to ensure minors are not permitted on the premises when the primary use is spirituous liquor in violation of state law. Acceptable forms of identification and log verifying receipt of such identification shall conform with requirements of state law.
- c. Patrons awaiting entry shall not disrupt orderly flow of pedestrian or other traffic, block entrance to neighboring establishments or premises, or occupy greater width than two (2) persons abreast. Permittee shall request patrons violating this paragraph to leave and shall not allow admittance to such patrons.
- d. Entrances and parking areas will be monitored by Permittee at least once each hour after 10:00 p.m. and until 1:00 a.m. or thirty (30) minutes after closing on Friday and Saturday nights.
- e. All patrons must have exited the premises and parking areas used by patrons within thirty (30) minutes after the designated closing time.
- f. Permittee shall have one employee escort the on-duty manager to the parking lot when currency/receipts are being carried.

VI. STAFFING AND OPERATIONS

1. OFFENSES AND POLICE CALLS FOR SERVICE

The Permittee agrees that it, its agents or employees will not commit or knowingly allow violations of Arizona state law or Tempe city ordinances to occur on the premises utilized by patrons of the Permittee.

Permittee will also inform patrons, through appropriate signage or other means, that acts and conduct prohibited by the following laws and ordinances are not allowed or tolerated by the Permittee on any premises or parking areas utilized by patrons of the Permittee; and that violators will be considered as trespassers by the Permittee, subject to criminal prosecution for trespass in addition to any offense charged.

- a. A.R.S. 4-101 et seq. through 4-261, as amended, Arizona Liquor Laws.
- b. A.R.S. 13-101 et seq. Arizona Criminal Code and A.R.S. 28-101 et seq. Arizona Motor Vehicle Code.

- c. Tempe City Code § 22-8, Curfew. This law sets a curfew for juveniles under the age of sixteen (16) at 10:00 p.m., and for juveniles age sixteen (16) and seventeen (17) at midnight. To comply with this law, Permittee agrees it will not allow any juveniles to remain at any location on its premises 1/2 hour prior to the curfew established in the code.

2. DEADLY WEAPONS

Permittee shall notify patrons that carrying of deadly weapons on the Permittee's premises and Permittee's parking areas is prohibited and request that weapons be removed as provided by A.R.S. 13-3102.

3. PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE (This section is applicable only to establishments with a liquor license.)

The Permittee agrees that a person under twenty-one (21) years of age will not be allowed on the premises where liquor is sold, dispensed or consumed unless:

- a. The person is accompanied by a spouse, parent or legal guardian who is at least twenty-one (21) years of age or is an on-duty employee of the Permittee; OR
- b. The primary purpose of the premises is serving food; OR
- c. The primary purpose of the premises is a patron participatory recreation activity limited to the minor's participation in any of the following sport activities: bowling, golf, football, basketball or sporting event.

4. MANAGEMENT

Permittee agrees to provide a minimum of one bartender/manager on the premises during hours when the Permittee is open for business. On duty bartenders/managers are responsible for supervision of all employees, security personnel and agents, and shall identify all employees, personnel and agents on the premises when requested by Tempe.

There shall be a manager and one assistant manager (or bartender) on duty during peak nights or when there are teen nights, promotional or special events.

5. SECURITY PERSONNEL AND EMPLOYEES *(If utilized.)*

- a. Permittee agrees to provide a minimum number of security personnel as indicated in the addendum hereto on the premises during hours when the Permittee is open for business or as otherwise indicated in the addendum hereto. Security personnel shall primarily perform security functions and not serve as manager or in another capacity.

- b. All employees managing or serving patrons, security personnel and agents of the Permittee shall be trained and knowledgeable about the contents of this Plan.
- c. Any personnel serving in security capacity on the premises (whether as employee or contractor) shall meet or exceed the requirements established by A.R.S. 32-2621 through A.R.S. 32-2636, as amended, relating to security personnel and guards, and any regulations issued pursuant thereto.

6. SECURITY APPAREL AND EQUIPMENT *(If utilized.)*

Security personnel shall display on their outer most clothing readily identifiable, and in contrasting colors, the words "Security" or "Security Personnel". Security shall be designated on the front of the clothing at least two (2) inches high, and on the back of the clothing at least four (4) inches high. Security uniforms shall not resemble Tempe law enforcement uniforms. Security uniforms shall be approved prior to use.

- a. All exterior security personnel shall have reflectorized vests with "SECURITY" displayed on both the front and back if the outer garment does not display "SECURITY".
- b. On-duty employees and agents shall wear clothing that readily identifies them as employees of the Permittee.

VII. CONDITIONS OF PLAN

- 1. COMPLIANCE WITH THE PLAN. Successful execution and enforcement of this Plan may be a requirement and condition of Tempe's Use Permit. Termination, cancellation or non-approval of the Plan constitutes a breach of any condition requiring the existence an approved Security Plan.
- 2. TERMINATION OF PLAN. This Plan may terminate on the date that the Permittee's Use Permit terminates, or two (2) years from the Security Plan's effective date, whichever date occurs first, unless otherwise provided herein.
- 3. VIOLATIONS AND PENALTIES. No person shall operate a use, which requires a Security Plan as directed in Tempe City Code, Section 11-30, in the absence of such required Security Plan or in a manner which violates a Security Plan required by this Article, and is punishable as set forth in Tempe City Code, Section 1-7.
- 4. REVOCATION OF THE PLAN. The Plan may be revoked by the City of Tempe upon ten (10) days written notice to the Permittee for 1) a violation of the Plan, 2) violation of the conditions of the Use Permit, 3) violation of Tempe ordinances or law, 4) repeated acts of violence or disorderly conduct as reflected by police calls for service or offenses occurring on premises utilized by patrons of the Permittee, 5) failure of the Permittee to take reasonable steps to protect the safety of person(s) entering, leaving or remaining on the premises when the

Permittee knew or should have known of the danger to such person, or the Permittee fails to take reasonable steps to intervene by notifying law enforcement officials or otherwise to prevent or break up an act of violence or an altercation occurring on the premises or on premises utilized by patrons and employees of the Permittee when the Permittee knew or reasonably should have known or such acts of violation or altercations, 6) any enlargement or expansion of the premises, plan of operation or program format without appropriate approvals from Tempe, 7) misrepresentations or material misstatements of the Permittee, its agents or employees.

- a. Permittee may request a hearing to appeal the decision to revoke this Plan by making the request in writing addressed to the Chief of Police of the Police Department, within five (5) days of receipt of the revocation. The Chief of Police, or a designated representative, may modify, affirm or reverse the revocation.
 - b. If the Permittee is dissatisfied with the administrative review by the Police Department, the Permittee may file an appeal in writing with the City Clerk to be heard by the City Council. Any appeal shall be filed within ten (10) days of receipt of the decision of the Police Department, setting forth the reasons why the decision should not be implemented; and
 - c. The City Council, acting in its legislative capacity, may modify or remand the decision of the Police Department.
5. **ASSIGNMENT OR TRANSFER.** This Plan is not assignable or transferable to Permittee's successors or assigns. The Plan is automatically terminated upon sale or transfer of any interest in the Permittee.
 6. **SECURITY PLAN CHANGES.** Any change in personnel identified in this Plan shall be reported to the Security Plan Manager or his designee within fourteen (14) calendar days after the change. Any change in the plan of operation or program shall be reported to the Security Plan Manager or his designee at least fourteen (14) calendar days prior to the change taking place and is subject to approval by the Security Plan Manager and/or C.P.T.E.D. Office.
 7. **MEETING REQUIREMENTS.** Management of Permittee shall arrange meetings with a representative of the Tempe Police Department for their staff and security personnel pertaining to disorderly conduct, safety, I.D. verification and general security issues prior to opening, and at intervals thereafter or when deemed necessary by the Security Plan Manager or other personnel of the Tempe Police Department. A letter shall be forwarded to the Security Plan Manager with proposed meeting date(s) and number of employees attending. Meetings throughout the year will be required as necessary.
 8. A copy of this Security Plan must be kept on the premises at all times and shall be made available upon request.

APPLICANT:

Michael J. Cuneo
Name: Michael J. Cuneo
Title: Sec/Treasurer
Address: 901 E. Mesquite St.
Chandler, AZ 85234
Phone: (602) 899-0128

Date: _____

APPROVED:

Bill "Buck" Rogers
Bill "Buck" Rogers
Tempe Police Department
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Date: 11/24/98